

SENATE BILL 1721
By Clabough

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18 and Title 62, Chapter 13, relative to real estate, vacation lodging services and consumer protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 62-13-104(a), is amended by deleting subdivision (7) and by substituting instead the following new language:

(7) The services performed by a vacation lodging service registered with the division of consumer affairs in the department of commerce and insurance.

SECTION 2. Tennessee Code Annotated, Section 62-13-104, is amended by deleting subsection (b) in its entirety.

SECTION 3. Tennessee Code Annotated, Title 47, Chapter 18, is amended by adding the following new part:

47-18-5201.

As used in this part, unless the context otherwise requires:

(1) "Person" means any natural person, corporation, company, partnership, firm or association;

(2) "Vacation lodging service" means the business of providing the services of management, marketing, booking and rental of residential

units owned by others as sleeping accommodations furnished for pay to transients or travelers staying not more than thirty (30) days.

47-18-5202. Each vacation lodging service shall be required to register with the division of consumer affairs in the department of commerce and insurance on forms provided by the division and pay an annual fee of one hundred dollars (\$100).

47-18-5203. A vacation lodging service shall set forth in its contract with the owners of the residential units the manner that it will account for the funds deposited with the service. A vacation lodging service shall set forth in its contract with the renters of the residential units its policies on refunds. All payments by renters to vacation lodging services shall be deposited in accounts used exclusively for the receipt and withdrawal of these funds. The vacation lodging service shall maintain for a period of at least three (3) years accurate records showing:

- (1) The amounts and depositor of the funds;
- (2) The date of deposit;
- (3) The dates and amounts of withdrawals;
- (4) The payees of the funds.

47-18-5204. Each vacation lodging service shall have an office at a fixed location. Within ten (10) days after any change of location of such office, the vacation lodging service shall notify the division of the new business address.

47-18-5205. A vacation lodging service shall not do any of the following:

- (1) Make any substantial and willful misrepresentation;
- (2) Make any promise of a character likely to influence, persuade or induce any person to enter into any contract or agreement when the licensee could not or did not intend to keep such promise;

(3) Pursue a continued and flagrant course of misrepresentation or making of false promises through other persons, any medium of advertising, or otherwise;

(4) Make misleading or untruthful advertising, including use of the term “realtor”, or using any other trade name or insignia or membership in any real estate association or organization. No vacation lodging service may advertise or hold itself out as a full-service real estate business.

(5) Fail, within a reasonable time, to account for or to remit any moneys coming into the vacation lodging service’s possession which belong to others;

(6) Fail to preserve for three (3) years accurate records of the firm’s accounts;

(7) Fail to furnish a copy of any contract to provide vacation lodging services to all signatories thereof at the time of execution;

(8) Use or promote the use of any contract to provide vacation lodging services for a residential unit which fails to specify a definite termination date;

(9) Violate any federal, state, or municipal law prohibiting discrimination in the rental of real estate because of race, color, religion, sex or national origin;

(10) Receive any compensation or valuable consideration to negotiate or sell real estate on behalf of an owner;

(11) Any conduct, whether of the same or a different character from that specified herein, which constitutes improper, fraudulent or dishonest dealing.

47-18-5206. The director of the division of consumer affairs or the director's duly authorized representatives may, at all reasonable hours, examine and copy such books, accounts, documents, or records as are relevant to a determination of whether a licensee has properly maintained and disbursed funds from its accounts.

47-18-5207. A violation of any of the provisions of this part shall constitute a violation of the Tennessee consumer protection act, compiled in title 47, chapter 18, part 1.

47-18-5208. Whenever it appears to the director of the division of consumer affairs that a vacation lodging service is acting in violation of this part, and the director determines that the public welfare is endangered, the director may issue an order to that operator to cease and desist in such violations, without prior notice. The operator shall be afforded an opportunity for a hearing within seven (7) business days to show cause why such order should be lifted, rescinded, or modified.

47-18-5209. Whenever it appears to the director of the division of consumer affairs that a vacation lodging service has acted in violation of this part, the director of the division may provide notice to the vacation lodging service of the violation. After providing the vacation lodging service with an opportunity for a contested case hearing, the director may assess a civil penalty against the vacation lodging service of an amount not to exceed five hundred dollars (\$500) per violation. In determining the amount of the civil penalty, the director shall take into consideration the following:

(1) Whether the violation endangered the public;

(2) Whether the vacation lodging service had been previously assessed civil penalties for violations; and

(3) Whether the violation was knowing.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.